

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

COMPLAINT NO. 00-133

**MANDATORY PENALTY
IN THE MATTER OF
HEWLETT-PACKARD COMPANY
1501 PAGE MILL ROAD, PALO ALTO, SANTA CLARA COUNTY**

This complaint assessing Mandatory Penalty pursuant to Water Code Section 13385 (h) is issued to Hewlett-Packard Company (hereafter Discharger) based on a finding of two violations of Waste Discharge Requirements Order No. 99-051, General NPDES permit No. CAG912003.

The Executive Officer finds the following:

1. On July 21, 1999, the Regional Water Quality Control Board, (Regional Board) adopted Order No. 99-051, General NPDES Permit No. CAG912003, for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds. The discharger applied for and received a letter dated December 24, 1999, authorizing the discharge of treated groundwater under this General Permit.
2. Order No. 99-051 prohibits the discharge of effluent (at a point after full treatment but before it joins or is diluted by any other waste stream, body of water, or substance) containing methyl tert butyl ether (MtBE) and 1,1,1-trichloroethane (1,1,1-TCA) concentrations exceeding 5.0 ug/l for each constituent.
3. According to the April 7, 2000, report submitted by the Discharger, a sample of the effluent from the treatment facility collected on February 29, 2000, contained MtBE and 1,1,1-TCA at concentrations of 14 ug/l and 26 ug/l, respectively. These concentrations exceeded the 5.0 ug/l instantaneous maximum limits established in the permit by 280 percent and 520 percent, respectively. Another effluent sample collected on March 9, 2000, contained 1,1,1-TCA at a concentration of 26 ug/l.
4. On July 18, 2000, HP submitted a letter to the Board asserting that the event that caused the permit limit exceedances constituted an "upset" pursuant to Provision F.16.d of the General Permit. After careful consideration, Board staff determined that the event causing the exceedances did not qualify as an upset.

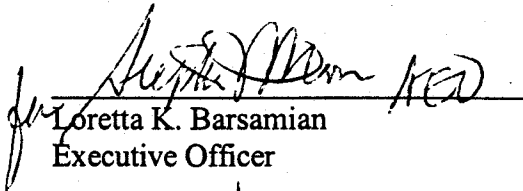
Although this event did not qualify as an upset, Board staff determined that it did qualify as a "single operational upset," as defined in EPA's 27 September 1989 guidance titled *Issuance of Guidance Interpreting "Single Operational Upset."* Pursuant to Water Code Section 13385(f), this determination allows Board staff to consider the two effluent limit exceedances for MtBE and 1,1,1-TCA that occurred on February 29, 2000, as a single violation. It does not, however, allow Board staff to consider effluent limit exceedances

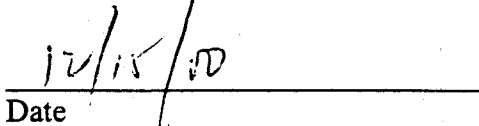
that occur on different days as a single violation. Accordingly, the March 9, 2000, effluent limit exceedance is considered a separate violation.

5. Recent changes to Water Code Section 13385 that became effective January 1, 2000, require the Regional Board to assess a mandatory minimum penalty of \$3,000 for serious NPDES violations. A serious violation includes discharge of effluent containing any Group II pollutant at a concentration that exceeds the established maximum limits by 20 percent or more. MtBE and 1,1,1-TCA are considered Group II pollutants. Water Code Section 13385 further authorizes the Regional Board to assess penalties of up to ten thousand dollars (\$10,000) per violation day and up to \$10 per gallon discharged, but not cleaned up, in excess of 1,000 gallons for each such violation.
6. The Discharger committed two serious violations during the six-month period beginning February 29, 2000, and ending on August 31, 2000. The total amount of the mandatory minimum penalty for the two serious violations is six thousand dollars (\$6,000).
7. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

HEWLETT-PACKARD COMPANY IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed a mandatory penalty in the amount of six thousand dollars (\$6,000).
2. The Executive Officer of the Regional Board plans to bring this matter to the Regional Board at its January 17, 2001, meeting unless the Discharger agrees to waive the hearing and pay the mandatory penalty of six thousand dollars (\$6,000). If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed mandatory penalty, or whether to refer the matter to the Attorney General for recovery of civil liability and mandatory penalty.
3. The Discharger may waive the right to a hearing. If the Discharger wishes to waive the hearing, the Discharger must check and sign the attached waiver and return it with a check made payable to the State Water Resources Control Board for the full amount of the mandatory penalty, six thousand dollars (\$6,000), to the Regional Board's office at the letterhead address, by January 5, 2001.


Loretta K. Barsamian
Executive Officer


Date

WAIVER

- [] By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-133 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the mandatory penalty proposed. I further agree to remit payment for the \$6,000 civil liability imposed under Complaint No. 00-133 by January 5, 2001.

Name (print)

Signature

Date

Title/Organization